Attorney Docket #: 2000P7914US

REMARKS/ARGUMENTS

I. Introduction:

The courteous telephone interview granted applicants' undersigned attorney by Examiner Ahmed Elallam on September 9, 2004 is hereby respectfully acknowledged.

Claims 13-28 are canceled herein. Claims 7 and 11-12 were previously canceled. With entry of this amendment, claims 1-6, 8-10 and 29-30 will be pending.

II. Claim Rejections Under 35 U.S.C. 103:

Claims 1-4, 8, 29, and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,307,853 (Storch et al.) in view of U.S. Patent No. 6,510,219 (Wellard et al.) and U.S. Patent Application Publication No. 2003/0039237 (Forslow).

Claim 1 is directed to a voice communication system configured for routing calls from multiple users to circuit switched or packet switched resources. The system generally comprises: a hub in communication with at least one circuit switched channel, at least one packet switched channel, and a plurality of user devices; a controller operable to select one of the circuit switched channel and the packet switched channel for connection with one of the user devices; and a routing device operable to route the call from the user device to the selected channel. Claim 1 has been amended to specify that the controller is operable to dynamically switch between the packet switched channel and the circuit switched channel and configured to switch a low priority call from the circuit switched channel to the packet switched channel so that the circuit switched channel is available for a high priority call.

Storch et al. disclose re-routing telephony communications traffic through a private branch exchange (PBX) to a data network. The telephony to data re-routing

system (TDR) re-routes telephony communication over a WAN or a PSTN. As shown in Fig. 3, the TDR is coupled to a PBX which is configured to route telephony data to the TDR. The PBX can be configured to re-route calls based on the phone number entered or on a particular telephony condition. The TDR can also determine how to re-route calls. If the TDR determines that a particular call should be placed through the PSTN, it re-directs the call back through the PBX to the PSTN. Routing rules stored on the TDR may be based on the phone number dialed. User default values may be used to determine if the call should be connected via the PSTN or the WAN.

As noted by the Examiner, Storch et al. do not disclose switching between packet switched and circuit switched channels. With respect to this limitation, the Examiner cited U.S. Patent No. 6,510,219 (Wellard et al.). Wellard et al. disclose an alternate network fallback for IP telephony. The routing is based on the quality of service (QoS) of the network. When the QoS of a call drops below a predetermined threshold, a switching device establishes a connection over an alternate network.

Forslow discloses common access between a mobile communications network and an external network with selectable packet-switched and circuit-switched services. Application flow is mapped to either a circuit-switched network or a packet-switched network depending on the quality required for the application flow. The system permits applications to select, for individual application flows, a specific quality of service and a specific type of network transfer mechanism (i.e., circuit switched or packet switched). In a differentiated services embodiment, a predefined service class may be associated with an individual application flow and all of the packets within that application flow are processed according to that quality of service class. Fig. 8 is a flowchart illustrating decisions for selecting either a circuit switched or packet switched network and corresponding QoS parameters for an application flow. Depending on the specified quality of service parameters, a packet-switched or circuit switched bearer is established. If, for example, an application flow can tolerate a large amount of delay, a packet switched bearer is selected. If little or no delay can be tolerated, a circuit-

switched bearer is selected. According to predefined threshold ranges, a next lower quality of service may be selected. For example, if a bucket depth is present and above the threshold range, the packet-switched bearer functions are selected (step 84 of Fig. 8). If the bucket depth is below the threshold range, the circuit switched bearer procedures are selected (step 86 of Fig. 8). These decisions are used to select the initial bearer for the application flow. In rejecting the claims, the Examiner refers to claim 3 of the Forslow patent. This claim simply refers to reserving a selected circuit-switched or packet-switched channel to support a requested quality of service. In fact, claims 5 and 6, depending indirectly from claim 3, go on to specify that once a resource is selected and reserved for an application flow, all packets in an application flow or all packets of the same service class are carried on the same reserved channel.

None of the references cited, including, Storch et al., Wellard et al. and Forslow show or suggest a controller configured to switch a low priority call from a circuit switched channel to a packet switched channel so that the circuit switched channel is available for a high priority call. Storch et al. disclose the use of default values for users but do not disclose different priority levels for users or switching channels during a call. Wellard et al. are concerned only with the QoS of the call and all calls are initially placed on a data network. Since the system of Wellard et al. measures QoS of an individual call there is no reason to determine the status of a call or compare two different calls on separate channels. Forslow selects either a circuit switched or packet switched channel for an initial application flow or individual application flows. There is no comparison between channels to determine priority of a call or switching channels once a channel is selected.

Applicants' invention, as set forth in claim 1, is particularly advantageous in that it allows a low priority caller to be switched to a lower quality network so that a higher priority caller (e.g., high level personnel in an office) can have the higher quality network available when it is needed. Furthermore, since the invention allows for the switching of channels to make a higher quality connection available when needed, all

users can utilize conventional circuit switched services when available, thus providing traditional voice quality of service. In contrast, the systems of Storch et al. and Forslow restrict certain users to a lower quality connection even if a higher quality connection is available, and Wellard et al. begin all calls with a lower quality connection, even if higher quality connections are available.

Applicants further submit that there is no suggestion to combine the teachings of Storch et al. with Wellard et al. and Forslow to produce the claimed invention. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Storch utilizes a telephony re-routing system that is located behind a PBX so that users do not have to modify their user interface. An important requirement of the TDR equipment is that it is able to provide a dial tone so that the call originators can continue to dial phone numbers as in a typical telephone interface. Wellard et al. use a data network to initiate all calls and therefore do not provide a conventional phone interface for their users. An important aspect of the Forslow invention is that a channel is selected for an application flow and that all common application flows use the same channel, thus teaching away from switching channels once an initial channel is selected.

Even assuming, for the sake of discussion, that one would look to Wellard et al. to find a way to switch to an alternate network, this would not necessarily lead to Applicants' invention. In particular, the invention defined by claim 1 requires a controller configured to switch a low priority call from a circuit switched channel to a packet switched channel so that the circuit switched channel is available for a high priority call. However, Wellard et al. simply disclose switching to a backup reliable network when the QoS of a call drops. As such, switching to a backup network based on QoS in the system of Storch et al. or Forslow, would not lead a person of ordinary skill in the art to the invention of claim 1.

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Accordingly, claim 1 is submitted as patentable over the prior art of record. Claims 2-6, 8-10, and 29-30, depending either directly or indirectly from claim 1, are submitted as patentable for the same reasons as claim 1.

III. Conclusion:

For the foregoing reasons, Applicants believe that all of the pending claims are in condition for allowance and should be passed to issue.

Respectfully requested,

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